

## **Remarks and Arguments**

Claims 1-10 are pending in this application. Claims 1 and 5 have been amended to particularly point out the invention. Support for these amendments is found on page 6, lines 14-17 and figures 2, 3, and 4. New claims 11-19 have been added. Support for new claims 11 and 15 is found on page 6, lines 9-14, and figures 2 and 3. Support for new claims 12 and 16 is found on page 7, lines 30-33 and figure 4. Support for new claims 13 and 17 is found on page 6, lines 17-19. Support for new claims 14 and 18 is found on page 6, lines 36-38. Support for new claim 19 is found on page 8, lines 31-34.

Claims 1-10 stand rejected. Each of the rejections is addressed below.

### **35 U.S.C. § 102**

#### **1. The Anticipation Standard**

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

#### **2. Claims 1-3, 5, 6, 8 and 9**

Claims 1-3, 5, 6, 8 and 9 stand rejected as allegedly anticipated by U.S. Patent No. 5,848,326 (hereinafter, "Komuro"). According to the Office, Komuro discloses a fluid dispenser cartridge 700 that is installed in a section of a photocopy machine 100 including reservoir 705 with an inlet at 740 and an outlet 701, a fill tube 710 with a discharge port at 712 and a means for gating gas 716. The Office does not point to a specific figure in Komuro, however Applicants believe the Office intended to refer to figures 8 and 10 as these figures contain the numbered elements referred to in the Office action. Applicants respectfully traverse the rejection.

Amended claim 1 recites in part: "A fluid dispenser cartridge suitable for installation into an apparatus . . . said gas gating means being disposed in either said fluid reservoir or said fill tube assembly or both ; and a fill valve operatively engaged onto the fill tube assembly. Similarly, amended claim 5 recites in part: "A fluid dispenser cartridge suitable for installation into an apparatus . . . said gas gating means being

disposed in either said substantially rigid fluid reservoir or said fill tube assembly or both and a fill valve operatively engaged onto the fill tube assembly.” Claims 2-3 depend on claim 1. Claims 6, 8, and 9 depend on claim 5.

Applicants first note that Komuro does not disclose a fill valve operatively engaged onto the fill tube assembly. Moreover, Applicants note the alleged gas gating means 716, is neither disposed in the alleged fluid reservoir 720, nor the alleged fill tube 710, nor both (see figure 10 in Komuro). Komuro states: “Thus as illustrated, an air path 717, is provided between the toner replenishing section 720 and the developing section 710 for reducing the internal pressure in the toner replenishing section 720,” (emphasis added)(column 8, lines 34-38). The air path leads to the filter. Thus according to Komuro the filter is between the toner replenishing section and the developing section, not disposed in the fluid reservoir or fill tube as recited in the claims.

Applicants also note that Komuro does not disclose a cartridge suitable for installation into an apparatus, but instead discloses a unitary integrated apparatus, see e.g., 710, the alleged fill tube. The two are not the same.

Applicants additionally question the characterization of 710 as “a fill tube.” Komuro describes 710 as a “developing section,” (column 8, lines 7-14). A section is not the same as a tube. The word “tube” is never used in the Komuro text when referring to 710. Moreover, examination of figure 10 does not suggest a structure that could be considered a tube.

Komuro does not disclose each and every element as set forth in the claims. Accordingly, for each of the reasons discussed above, it cannot anticipate the claims. Applicants respectfully request withdrawal of the rejection.

### **3. Claims 1, 5 and 7**

Claims 1, 5 and 7 stand rejected as allegedly anticipated by U.S. Patent No. 6,793,102 (hereinafter “Tan”). According to the Office, Tan discloses a fluid dispenser cartridge 4 that is installed on a dispensing apparatus 20 including a reservoir 52 with an inlet at 10 and an outlet 738, a fill tube 73 with a discharge port at 73A and a means for gating as a pressure valve 18. Applicants respectfully traverse the rejection.

Applicants note that Tan does not disclose a fill valve operatively engaged onto the fill tube assembly as recited in claims 1 and 5. Claim 7 depends on claim 5. Tan

does not disclose each and every element as set forth in the claims. Accordingly, it cannot anticipate the claims. Applicants respectfully request withdrawal of the rejection.

#### **4. Claims 1, 2, 5, 6, and 8**

Claims 1, 2, 5, 6, and 8 stand rejected as allegedly anticipated by U.S. Patent No. 5,464,127 (hereinafter "Burrows"). According to the Office Burrows discloses a fluid dispenser cartridge 10, which is installed on a dispensing apparatus 14 including a reservoir 20 with an inlet at 30 and a means for gating gas 98. Applicants respectfully traverse the rejection.

Applicants note that Burrows does not disclose a fill valve operatively engaged onto the fill tube assembly as recited in claims 1 and 5. Claim 2 depends on claim 1. Claims 6 and 8 depend on claim 5. Moreover, Applicants note that Burrows does not disclose a fill tube assembly connected to said fluid reservoir at said fluid outlet such that fluid from said fluid reservoir can flow into said fill tube assembly during use of said cartridge in said apparatus, the fill tube assembly having a discharge port for dispensing fluid out of said fill tube assembly as recited in claims 1 and 5. Lastly, Applicants disagree with the Office's characterization of 10 as a fluid dispenser cartridge. Burrows states: "As shown in the exemplary drawings, an improved actuator probe assembly referred to generally in Fig. 1 by the reference numeral 10 is provided for receiving and supporting an inverted water bottle 12 on water bottle station 14," (column 3, lines 41-45). Applicants do not believe an actuator probe is the same as a fluid dispenser cartridge.

Burrows does not disclose each and every element as set forth in the claims. Accordingly, it cannot anticipate the claims. Applicants respectfully request withdrawal of the rejection.

### **35 U.S.C. § 103**

#### **1. The Prima Facie Standard**

MPEP § 2143 provides the standard required to establish a prima facie case of obviousness. "First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there

The motivation to make the claimed invention and the reasonable expectation of success must both be found in the prior art, not the applicant's disclosure. *In re Vaeck*, 493, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991). The references must be considered as a whole and must suggest the desirability, and thus the obviousness of making the combination. *Hodosh v. Block Drug Co., Inc.*, 229 U.S.P.Q. 182, 187 n.5 (Fed. Cir. 1986); MPEP § 2141. The Patent and Trademark Office (PTO) bears the burden of initially establishing a prima facie case of obviousness. MPEP § 2142. The PTO has not met its burden in the instant case.

## **2. Claims 3 and 9**

Claims 3 and 9 stand rejected under 35 U.S.C. § 103 as allegedly unpatentable over Burrows in view of U.S. Patent No. 6,554,881 (hereinafter "Healey"). According to the Office Burrows discloses a dispensing apparatus including a matte type vent filter substantially as claimed. The Office admits that Burrows does not disclose any specific material for the filter. The Office relies on Healy, which it alleges discloses a vent filter made of polyethylene fiber. Applicants respectfully traverse the rejection.

Applicants first note that claims 3 and 9 depend on claims 1 and 5, respectively, and further note that for the reasons set forth above regarding anticipation, Burrows does not teach or suggest each and every element of the claim. Healy does nothing to cure this defect. Because the combination of the cited references does not teach or suggest each claim element, claims 3 and 9 are not prima facie obvious over Burrows in light of Healy. Applicants respectfully request withdrawal of the rejection.

## **Claims 4 and 10**

Claims 4 and 10 stand rejected under 35 U.S.C. § 103 as allegedly unpatentable over Burrows in view of U.S. Patent No. 6,073,812 (hereinafter "Wade"). According to the Office Burrows discloses a dispensing apparatus including a membrane type vent filter substantially as claimed. The Office admits that Burrows does not disclose any specific material for the filter. The Office relies on Wade which it alleges discloses a vent filter made of polytetrafluoroethylene.

Applicants first note that claims 4 and 10 depend on claims 1 and 5, respectively, and further note that for the reasons set forth above regarding anticipation, Burrows does not teach or suggest each and every element of the claim. Wade does nothing to

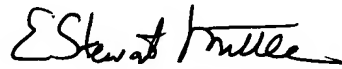
cure this defect. Because the combination of the cited references does not teach or suggest each claim element, claims 4 and 10 are not prima facie obvious over Burrows in light of Wade. Applicants respectfully request withdrawal of the rejection.

### **CONCLUSION**

In view of the foregoing remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account.

Respectfully submitted



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